

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Donald Whitten

v.

Civil No. 09-cv-450-SM

Larry Blaisdell, Warden,
Northern New Hampshire
Correctional Facility et al.¹

ORDER

Pursuant to the motion of defendant Dr. William Eppolito and the testimony of plaintiff, Donald Whitten, in open court on February 17, 2010, requesting that Eppolito be dropped as a defendant, I hereby order that all claims against Eppolito be dismissed without prejudice from this action, and that Eppolito be dropped as a defendant, in accordance with Fed. R. Civ. P. 41(a). Whitten testified that he did not intend to sue Eppolito and that Eppolito's inclusion in the complaint was a mistake. The clerk shall note plaintiff's voluntary nonsuit of Eppolito and dismiss the claims pending against him, without prejudice.

¹In addition to Larry Blaisdell, Northern New Hampshire Correctional Facility Warden, the complaint lists the following defendants to this action: William Wrenn, New Hampshire Department of Corrections ("DOC") Commissioner; Robert MacLeod, DOC Medical Director; Dr. Celia Englander, physician; Dr. Eppolito, physician; and Judy Baker, Nurse Practitioner.

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: March 15, 2010

cc: Donald Whitten, pro se
Edward M. Kaplan, Esq.
Nancy J. Smith, Esq.

JRM:nmd